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SUBJECT: SETTING THE TONE FOR THE 2007 U.S.-TURKEY TIFA MEETINGS

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11. (SBU) Summary: The fifth U.S. Turkey TIFA discussions in Washington provide an opportunity to build on the positive tone set in the 2006 meetings to further improve our bilateral trade relationship. Turkey has made significant improvements to its investment climate, and FDI is rising considerably, but certain market access issues remain important for U.S. companies. Access for agricultural products is the most limited, while IPR is an ever-present issue that deserves a broad discussion during the talks. The Turkish side will raise recent discussion of new investigations into Turkish exports of iron and steel products, which they argue could affect approximately one quarter of total Turkish exports. We encourage the early establishment of the U.S. delegation in order to pressure the broadest participation possible on the Turkish side. End summary.

12. (SBU) The fifth U.S.-Turkey Trade and Investment Framework Agreement (TIFA) discussions are scheduled for April 12 - 13, 2007, in Washington. The Turkish delegation will be led by Foreign Trade (FTU) Deputy Undersecretary Ulker Guzel. Building on the positive dialogue restarted during the 2006 TIFA in Ankara, the 2007 TIFA meetings provide an opportunity for a discussion focusing not only on our bilateral trade problems but also on ways to improve U.S.-Turkish trade relations.

13. (SBU) The TIFA is an important part of Secretary Rice and Foreign Minister Gul's "Shared Vision and Structured Dialogue" in which they specifically call for strengthening Turkey's economy by deepening economic cooperation and increasing business exchanges. This year's meetings come at a time when many of the trade disputes that have plagued our bilateral trade relationship have been resolved. Turkey has also made significant progress in improving its investment climate, and FDI levels continue to rise significantly (ref C).

14. (SBU) While there have been considerable improvements, market access issues remain. The sector in which these issues are most prominent is access for U.S. agricultural products. The United States is currently pursuing a case at the WTO Dispute Settlement Body that challenges Turkey's import restrictions on U.S. rice. Turkey also restricts or prevents imports of U.S. beef and poultry and other grains, fruits and vegetables. Turkey has made considerable improvement in its IPR protection infrastructure and legal framework (ref A), but issues related to pharmaceutical data exclusivity and pricing and reimbursement continue to be a major concern to U.S. pharmaceutical companies. In addition to pharmaceutical IPR, Turkey also needs to continue its law enforcement efforts to combat the production and distribution of

counterfeited goods.

Ag Market Access a Key Topic

15. (SBU) Turkey is currently going through the EU accession process, which requires harmonization of its laws and regulations with the so-called 'acquis communautaire.' While it joined the European Customs Union in 1996, the Customs Union is limited to industrial goods and does not apply to agricultural trade. Because of this, Turkey has been able to retain a number of barriers to agricultural imports that would threaten the viability of local production. In 2006, however, USTR filed a case against Turkey in the WTO's Dispute Settlement Body (DSB) that challenges the use of control certificates to limit imports of rice, and by extension, other agricultural products. Agricultural market access issues should compose a large part of the upcoming TIFA discussions.

16. (SBU) Specific agricultural market access issues include Turkey's:

- lack of Sanitary and Phytosanitary Standards (SPS)/Technical Barriers to Trade (TBT) Notification;
- unscientific SPS measures;
- unscientific import documentation requirements;
- inordinately high tariffs;
- and de facto import restrictions on items such as beef and poultry.

IPR -Systemic Changes and Expectations Should Be Addressed

17. (SBU) IPR protection is an ever-present topic on our bilateral economic agenda, and Turkey currently sits on USTR's Special 301

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Priority Watch List. Significant improvements have been made to Turkey's protection infrastructure (ref A), and they continue to make progress on harmonizing Turkey's legal infrastructure with EU requirements. A number of problems, however, still remain. U.S. pharmaceutical companies in Turkey continue to express concern about the remaining marketing applications for generic products filed prior to January 1, 2005, on which the Ministry of Health has not yet made a decision. Indeed, in our meetings with MOH officials they have made it clear that their priority is to process the post 2005 applications, both for generic and innovative drugs, and that many of the files for the generic applications in question have never been completed by the companies. We do not anticipate that decisions will be made on these applications. However, U.S. companies continue to suffer from the resulting uncertainty.

18. (SBU) The Foreign Trade Undersecretariat eagerly cooperated with us to compile the requested information during the Advance Special 301 review process (ref A). We encourage USTR and EEB/IPE to respond to this information indicating the areas in which progress was positive, and areas in which more action is expected. We propose creating an "IPR Action Plan" similar to the one developed for Greece that would provide Turkish policy makers with concrete indicators of success and a clear plan of what is expected by U.S. IPR policy makers. We hope that the TIFA will provide the two sides with an opportunity to have a broader discussion of IPR protection that goes beyond pharmaceutical data exclusivity and the generic applications still awaiting a decision (ref B).

Distilled Spirits

19. (SBU) Little has been done to rectify the preferential treatment given to raki manufacturers in Turkey since our discussion of this issue in the 2006 TIFA. The issue is the same - raki is classified differently than other distilled spirits and therefore is taxed and priced lower than other alcoholic beverages. In addition, distilled spirit importers are required to get separate licenses from two unrelated Turkish agencies, a time consuming and frustrating process.

Government Procurement

¶10. (SBU) We believe that it could be worthwhile to encourage the Turkish delegation to move from observer status to full member of the WTO Agreement on Government Procurement. Turkish firms, particularly in the construction sector, are anxious to compete for other governments' projects, especially those related to construction. At the same time, U.S. companies complain frequently to us about the obstacles they face bidding on Turkish government contracts. An argument can also be made that gaining access to U.S. public tenders could provide an alternative market for Turkey's well-established general pharmaceutical manufacturers that have traditionally taken advantage of gaps in Turkish IPR protection. If Turkey is not willing to join the WTO Government Procurement Agreement because of fears of competition from other non-U.S. countries, we may wish to offer to negotiate a bilateral agreement on government procurement.

Doha Round

¶11. (SBU) Turkey does not have a unified position when it comes to WTO issues but rather chooses to side with developed countries in NAMA discussions and developing countries on agricultural issues. For this reason, Turkey has not been a constructive participant in WTO negotiations. USTR may wish to encourage a more flexible position on agricultural issues given Turkey's potential as a producer of manufactured products. Turkish officials will undoubtedly raise their interest in special safeguard measures in the textile sector.

Likely Turkish Issues

¶12. (SBU) Iron and Steel: According to FTU officials, they plan to raise iron/steel dumping investigations during the TIFA talks. Atilla Bastirmaci, Head of America's Department, said Turkey understands that U.S. iron and steel manufacturers have recently called for new investigations into past U.S. iron/steel imports because these manufacturers believe that investigations conducted during the last three to four years were not done in the appropriate way. He added that such new investigations could affect approximately one quarter of Turkish exports to the U.S. during this

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time period.

¶13. (SBU) Regional Initiatives: The U.S. delegation should be prepared to discuss the proposed "Joint Production Opportunities" concept raised by EEB A/S Sullivan and MFA U/S Apakan during the February Economic Partnership Commission (EPC) meeting. The GOT sees this proposal as a replacement for including Turkey in Qualified Industrial Zones (QIZs) and thus will need to be apprised of what can and cannot be done under such an arrangement.

¶14. (SBU) GSPs: The Turkish delegation will likely raise Turkey's participation in the Generalized System of Preferences (GSPs) and request an update following last year's decision to temporarily extend the current arrangements.

Meeting Logistics

¶15. (SBU) FTU officials have asked whether Deputy U/S Guzel should be prepared to give a detailed presentation on the Turkish economy or a more brief introduction that addresses the bilateral trade relationship. In addition, they asked if Deputy U/S Guzel and A/USTR Donnelly would participate for the full day or only for a morning session.

Comment

¶15. (SBU) We look forward to the fifth U.S.-Turkey TIFA and stand

ready to assist with the preparations. Turkish officials, ever mindful of protocol, will not begin to develop their delegation until they find out the composition of the U.S. delegation and the topics for discussion. In order to encourage broad Turkish participation, we should present to FTU officials the U.S. delegation as soon as possible so that they can begin urging their colleagues from other agencies to attend. End comment.

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